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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT
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Middle-HARRISBURG
Clerk of District Court
(District) OF PENNA.

Date 4-30-02

Landau vs. Shannon
(Caption)

C. of A. No. 01-3317 and
01-3938

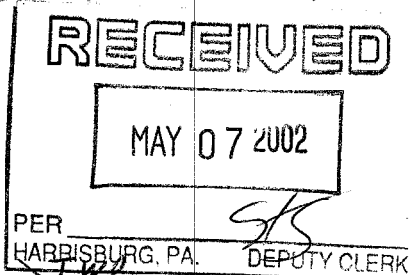
Lee A. Landau
(Appellant)

01-CV-1025 2/2002
(D.C. No.)

Enclosures:

4-30-02
(Date)

Certified copy of C. of A. Order 5 by the Court/Clerk



* ☒ Record

* _____ Supplemental Record (First) (Second) (Third)

* _____ Exhibits

* _____ State Court Record

_____ Copy of this form to acknowledge receipt and return to C. of A.

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BPS-137

April 4, 2002

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UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 01-3317

LEE D. LANDAU

VS.

ROBERT SHANNON

(M. D. Pa. Civ. No. 01-cv-01025)

Present: ALITO, McKEE and ALDISERT, Circuit Judges

Submitted:

(1) By the Clerk for possible dismissal due to a jurisdictional defect;

(2) Appellant's jurisdictional response; and

(3) Appellant's motion for appointment of counsel

in the above-captioned case.

Respectfully,

Clerk

MMW/CRD/je

ORDER

Appellant appeals the District Court's order entered August 6, 2001, affirming the Magistrate Judge's orders filed June 22, 2001, as within the Magistrate Judge's authority under Fed. R. Civ. P. 72 to decide pre-trial and non-dispositive matters. This court may hear appeals only from final orders of the District Court. 28 U.S.C. § 1291. A final order ends the litigation on the merits and leaves nothing for the court to do but execute the judgment. Republic Natural Gas Co. v. Oklahoma, 334 U.S. 62, 68 (1948). The order appealed is neither a final order nor an immediately appealable interlocutory order. Accordingly, the appeal is dismissed for lack of appellate jurisdiction.

FILED
HARRISBURG, PA
MAY 07 2002
MARY E. D'ANDREA, CLERK
Per je Deputy Clerk

By the Court,

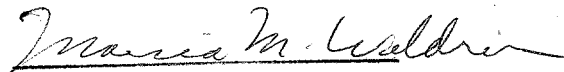


Circuit Judge

Dated: APR 30 2002

ch/cc: LDL
WCC

A True Copy:



Marcia M. Waldron,
Clerk

BPS-136

April 4, 2002

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 01-3938

LEE D. LANDAU

VS.

ROBERT SHANNON

(M. D. Pa. Civ. No. 01-cv-01025)

Present: ALITO, McKEE and ALDISERT, Circuit Judges

Submitted:

- (1) By the Clerk for possible dismissal due to a jurisdictional defect ;
 - (2) Appellant's jurisdictional response; and
 - (3) Appellant's motion for sanctions
- in the above-captioned case.

Respectfully,

Clerk

MMW/CRD/je

ORDER

The foregoing appeal is dismissed for lack of jurisdiction. The order of the District Court, transferring the appellant's petition under 28 U.S.C. § 2254 to this Court to be treated as an application under 28 U.S.C. § 2244 for permission to file a second or successive section 2254 petition, is not a final, appealable order. See 28 U.S.C. § 1291; Carteret Savings Bank, FA v. Shushan, 919 F.2d 225 (3d Cir. 1990). The appellant's motion for sanctions is denied.

FILED
HARRISBURG, PA

MAY 07 2002

MARY E. D'ANDREA, CLERK
Per [Signature]
Deputy Clerk

By the Court,

Seal

Circuit Judge

Dated: APR 30 2002

CH/CC: LDL
WCC

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Marcia M. Waldron

Marcia M. Waldron,
Clerk